REMARKS

Applicant requests reconsideration and further examination of this application.

Applicant appreciates the Examiner's indication that Claim 3 is allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and rewritten in independent format. Applicant also appreciate the Examiner's indication that Claims 6-8 are allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph.

In response, Applicant has amended Claim 3 to be in independent format by including the limitations of original Claim 2, and has solved the rejection under Section 112 of the lack of antecedent basis for the phrase "said patch" as the Examiner suggested. Also, Applicant has amended Claim 6 to solve the lack of antecedent basis for the phrase "said patch" as the Examiner suggested. Also, Applicant has cancelled Claim 4, and amended Claim 5 to be dependent upon Claim 3. Therefore, Claims 3 and 5-8 are allowable.

Regarding the rejection of Claims 1 and 2:

Applicant has amended Claim 1 to recite that the spacing apparatus has a bottom surface, and a top surface with a central region and outer perimeter edges, and wherein the top surface is generally convex all the way from said central region to said outer perimeter edges. This amendment is supported in the application as filed, especially at Figure 3A and in lines 19 - 21 of page 7 of the specification. Literal support has been added at line 21 of page 7 of the Description, and call-out numbers have been added to Figure 3B, without adding new matter.

Applicant has also amended Claim 2 to include the spacer having a bottom surface and a top surface with a central region and outer perimeter edges, wherein the top surface is generally convex all the way from said central region to said outer perimeter edges, and wherein said placing is performed so that said vinyl patch rests on said generally convex top surface. This amendment is supported in the original application, as discussed above for Claim 1, and no new matter has been added.

Claims 1 and 2 are now clearly differentiated from, and unobvious in view of, a coin or coins or tile fragment or fragments. Although a coin may have a picture or a famous person's

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likeness in the form of a slight, stamped relief, it certainly may not be reasonably described by: "the top surface is generally convex all the way from said central region to said outer perimeter edges." Also, a coin is known to be substantially flat on its top, even in spite of the picture or person's likeness. Also, a tile fragment may not reasonably be described as: "the top surface is generally convex all the way from said central region to said outer perimeter edges." Also, a tile fragment is known to be substantially flat on its top, even in spite of any slight pattern or slight relief that might be present. The methods of Claims 1 and 2, using the spacing apparatus as now claimed, are not obvious in view of a substantially flat object such as a coin or a tile fragment.

Regarding Claim 9 and Dependent Claims:

Applicant has amended Claim 9 to positively recite "sticking said protrusion into the damaged floor covering section. . . " This is supported in the original application at lines 23, and 27 - 29, so no new matter has been added.

The method of Claim 9 is clearly differentiated from, and unobvious in view of, the prior art, as there is no suggestion to provide a protrusion on the spacing apparatus and to stick it into the damaged floor covering section. Therefore, Claim 9 and its dependent claims are allowable.

Applicant has added new Claims 13 and 14, which claim the protrusion to be a pointed tip and a sharp protrusion, respectively. These claims are support in the original application at page 7, line 27, and page 8, line 1, respectively, so no new matter has been added.
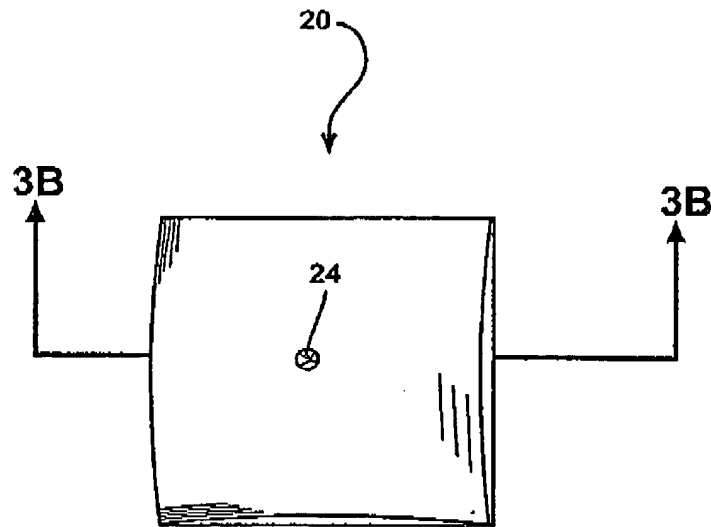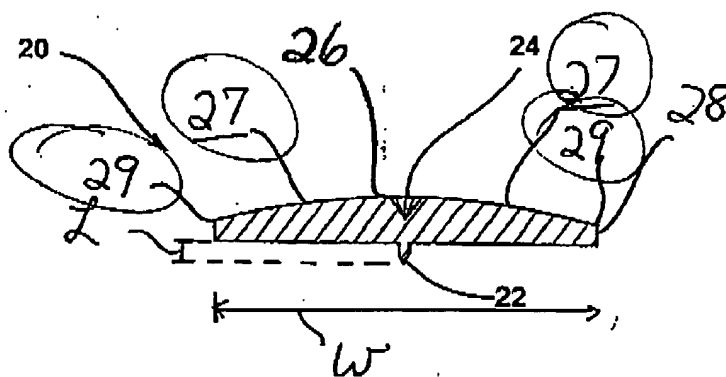
Applicant now believes the application is in condition for allowance and respectfully requests the same.

Respectfully submitted,

Date: 4-13-06

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Annotated Sheet

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3B   3B

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FIG. 3A

20   27   26   24   27   28
29   29
                    22
                    W

FIG. 3B